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Crl.OP.No.25807 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.OP.No.25807 of 2022

Mohan

..Petitioner

Vs.

The State of Tamil Nadu Rep by,
The Inspector of Police,
SRMC All Women Police Station,
Mangadu, Chennai - 600 122
Crime No.10 of 2022

...Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail in connection with Crime
No.10/2022 on the file of respondent police.

For Petitioner : Mr.D.Thanigaivasan

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 25.09.2022 for the offences punishable under Sections 294(b), 323, 506(1) of IPC and Section 5(I), 5(g), 5(o), 6 of POCSO Act in Crime No.10 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution is that a victim boy aged about 14 years has been admitted on 25.05.2022 to a Rehabilitation centre run by the 1st accused named Mr.Ravi in the name and style of "REE LIFE FOUNDATION", since the victim did not obey his parents and had discontinued his school studies. Then, the victim boy was admitted to such rehabilitation centre by one Mr.Guru, the neighbour to the victim boy, on the consent from his father and mother. The accused 2 to 3 namely Jagain, Navalan and Karthicj are the employees to such rehabilitation centre and the petitioner here is the 5th accused in the alleged offence is the uncle (sister's husband) to the 1st accused. The further allegation is that when the victim was in the home, accused 1 to 4 have brutally attacked the said victim boy and molested him and 1st accused in a drunken mood has harassed and tortured the boy physically



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and also committed forcible sexual abuse against the victim multiple times and the accused 1 to 5 have attacked the victim boy, in which the victim boy escaped from the said Rehabilitation centre and then his mother had complained the same and the said complaint was forwarded to the Respondent Police and the same was registered in Crime No. 10 of 2022 under Section 294(b), 323, 506(1) of IPC and Section 5(I), 5(g), 5(o) and 6 of POCSO Act.

3. The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A5 in this case. The allegation against the petitioner is that, he is the relative of the main accused, who was running the home and that he is stated to have beaten the victim. He would further submit that though in the statement recorded under Section 161 of Cr.P.C, some allegations were made against the petitioner that he had assaulted the victim boy along with other accused, subsequently in the statement recorded under Section 164 of Cr.P.C, the victim boy has not murmured or whispered about the petitioner herein. He would further submit that the petitioner is the relative of A1 and he has nothing to do with the alleged offence and he is running a fancy store and the



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major allegations are only as against the main accused in this case. He would further submit that the petitioner has been suffering incarceration from 25.09.2022. Hence, he seeks for grant of bail to the petitioner.

4. The respondent has filed detailed status report. This Court perused the relevant para (7,8) which is the extract of 164 statement of the victim boy.

5. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner is the relative of the main accused. The allegations as against the petitioner in the FIR is that the petitioner along with other accused had physically assaulted the victim. He would further submit that there is no allegations as against the petitioner for having sexually assaulting the victim boy. He would fairly submit that in the statement recorded under Section 164 of Cr.P.C from the victim boy, he has not whispered anything about the petitioner herein. However, he opposed to grant bail to the petitioner.



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6. Heard the learned counsels and also perused the FIR as well as the statement under Section 164 of Cr.P.C recorded from the victim boy.

7. Taking into consideration the facts and submissions and the period of incarceration of the petitioner from the date of his arrest and also considering that there is no allegation as against the petitioner for having physically molested the victim boy, this Court is inclined to grant bail to the petitioner.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/-** (Rupees Twenty Five thousand only) with **two sureties**, each for a like sum to the satisfaction of the learned **Special Court for Exclusive Trial under POCSO Act, Chengalpattu** and on further conditions that :-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



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[b] the petitioner shall report before the respondent police daily at 10.30.a.m., until further orders.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

04.11.2022

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To

1.Special Court for Exclusive Trial under POCSO Act,
Chengalpattu

2.The Inspector of Police,
SRMC All Women Police Station,
Mangadu, Chennai - 600 122

3.Sub Jail, Chengalpattu.

4.The Public Prosecutor,
High Court of Madras



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A.D.JAGADISH CHANDIRA, J.

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